

1 I, Jeremy P. Auster, declare as follows:

2 1. I am an attorney at the law firm of Wilson Sonsini Goodrich & Rosati, P.C., counsel
3 for Defendant Google LLC (“Google”) in this action. I submit this Declaration pursuant to Civil
4 Local Rule 6-3 and in support of Google’s Motion to Extend Time Pursuant to L.R. 6-3. I have
5 personal knowledge of the facts and circumstances described below, and would testify to them if
6 called upon as a witness.

7 2. On April 3, 2023, I emailed Plaintiff to ask if he would stipulate to an adjournment
8 of Google’s deadline to oppose Plaintiff’s Motion for Partial Summary Judgment (Dkt. 49, the
9 “Motion”) until after Google’s pending Motion to Dismiss is heard. Plaintiff would not state
10 whether or not he would consent to the adjournment. I sent two follow-up emails reiterating the
11 request. Plaintiff did not answer those emails. *See* L.R. 6-3(2).

12 3. Google’s Motion to Dismiss, if granted, will render Plaintiff’s Motion completely
13 moot. As such, Google should not be required to expend time and resources responding to
14 Plaintiff’s Motion while the Motion to Dismiss is pending. The Motion to Dismiss is scheduled
15 for hearing on **July 11**, and the Court has already continued the hearing on Plaintiff’s Motion until
16 **August 8**. Dkts. 33, 50. Extending Google’s deadline to oppose the Motion until **July 17**, after
17 the Motion to Dismiss is heard, will prevent undue burden and expense and promote judicial
18 economy. *See* L.R. 6-3(1).

19 4. It would be harmful and prejudicial to force Google to expend unnecessary time
20 and resources responding to Plaintiff’s frivolous “summary judgment” Motion that will be mooted
21 if Google’s pending Motion to Dismiss is granted. Additionally, there will be no harm or prejudice
22 to Plaintiff from Google’s requested extension. If Plaintiff’s copyright claim survives Google’s
23 Motion to Dismiss, then Plaintiff’s Motion be fully briefed before the **August 8** hearing date and
24 can remain on calendar. *See* L.R. 6-3(3).

25 5. This is Google’s first request for an extension of a briefing deadline in this case.
26 On April 3, 2023, the Clerk issued a *sua sponte* notice continuing the hearing on Plaintiff’s Motion
27 until August 8, 2023. Dkt. 50. Recognizing that Google’s Motion to Dismiss may dispose of the
28 entire case, this Court also issued an Order on April 3, 2023 staying discovery pending the

1 resolution of Google's Motion to Dismiss and adjourning the deadlines to file case management
2 statements and conduct the initial Case Management Conference until July 20, 2023 and July 27,
3 2023, respectively (*i.e.*, after the Motion to Dismiss hearing). Dkt. 47. *See* L.R. 6-3(5).

4 6. If Google's requested extension is granted, Google's opposition to Plaintiff's
5 Motion will be due **July 17, 2023** and Plaintiff's reply will be due **July 24, 2023**. L.R. 7-3(c).
6 The modification will not affect the **August 8** hearing date on Plaintiff's Motion, or any other
7 scheduled deadlines in this case. *See* L.R. 6-3(6).

8
9 I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th
10 day of April, 2023 in New York, New York.

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12 By: /s/ Jeremy P. Auster
13 Jeremy P. Auster
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